

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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LAZARO MONTERO COLLADO,

Plaintiff,

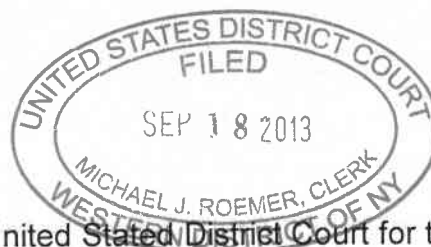
-v-

JUANITA CANCEL,

Defendant.

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10-CV-0817F  
ORDER



Plaintiff originally filed this *pro se* action in the United States District Court for the District of South Carolina as a federal prisoner incarcerated in South Carolina, claiming to be subject to removal upon his release. He alleged that defendant breached a contract to manage and operate his restaurant in Rochester, New York while plaintiff was in prison, in exchange for monthly payments. Upon transfer to this Court, plaintiff was directed to show cause why the complaint should not be dismissed for lack of subject matter jurisdiction (Docket No. 19). Plaintiff then filed an amended complaint (Docket No. 20), and the Court issued an order directing service of the summons and complaint by the U.S. Marshals Service on defendant (Docket No. 23), but because plaintiff did not provide the Court and Marshals Service with the necessary summons and U.S. Marshal Process Receipt and Return Form (USM-285), service was not completed. The Court therefore issued another order directing plaintiff to prepare the necessary summons and Marshal Form and return them to the Court so that the Marshal could attempt service on defendant (Docket No. 26). On February 22, 2013, an undated Acknowledgment of Receipt of

Service by Mail, see N.Y.C.P.L.R. § 312-a(b), was returned to the Marshals Service and docketed (Docket No. 27).

There has been no further activity in this case since the Acknowledgment of Return of Service by Mail was returned and docketed. Accordingly,

IT IS HEREBY ORDERED that, pursuant to Rule 41(b) of the Local Rules of Civil Procedure, plaintiff is directed to show cause, in writing, by **October 23, 2013**, why this action should not be dismissed for failure to prosecute. **Failure to comply with this order will result in the dismissal of this action with prejudice pursuant to Fed. R. Civ. P. 41(b) and Loc.R.Civ.P. 41(b).**

SO ORDERED.

DATED:

9/18, 2013  
Buffalo, New York

  
JOHN T. CURTIN  
United States District Judge